

103D CONGRESS  
1ST SESSION

# H. R. 253

To amend the Internal Revenue Code of 1986 to index the basis of certain assets for purposes of determining gain or loss and to exclude from gross income all dividends from domestic corporations.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 5, 1993

Mr. NEAL of North Carolina introduced the following bill; which was referred to the Committee on Ways and Means

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## A BILL

To amend the Internal Revenue Code of 1986 to index the basis of certain assets for purposes of determining gain or loss and to exclude from gross income all dividends from domestic corporations.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Savings and Invest-  
5 ment Incentive Act”.

1 **SECTION 2. INDEXING OF CERTAIN ASSETS FOR PURPOSES**  
2 **OF DETERMINING GAIN OR LOSS.**

3 (a) IN GENERAL.—Part II of subchapter O of chap-  
4 ter 1 of the Internal Revenue Code of 1986 (relating to  
5 basis rules of general application) is amended by inserting  
6 after section 1021 the following new section:

7 **“SEC. 1022. INDEXING OF CERTAIN ASSETS FOR PURPOSES**  
8 **OF DETERMINING GAIN OR LOSS.**

9 “(a) GENERAL RULE.—

10 “(1) INDEXED BASIS SUBSTITUTED FOR AD-  
11 JUSTED BASIS.—Except as provided in paragraph  
12 (2), if an indexed asset which has been held for  
13 more than 1 year is sold or otherwise disposed of,  
14 for purposes of this title the indexed basis of the  
15 asset shall be substituted for its adjusted basis.

16 “(2) EXCEPTION FOR DEPRECIATION, ETC.—  
17 The deduction for depreciation, depletion, and amor-  
18 tization shall be determined without regard to the  
19 application of paragraph (1) to the taxpayer or any  
20 other person.

21 “(b) INDEXED ASSET.—

22 “(1) IN GENERAL.—For purposes of this sec-  
23 tion, the term ‘indexed asset’ means—

24 “(A) stock in a corporation, and

25 “(B) tangible property (or any interest  
26 therein), which is a capital asset or property

1           used in the trade or business (as defined in sec-  
2           tion 1231(b)).

3           “(2) CERTAIN PROPERTY EXCLUDED.—For  
4           purposes of this section, the term ‘indexed asset’  
5           does not include—

6                   “(A) CREDITOR’S INTEREST.—Any interest  
7                   in property which is in the nature of a credi-  
8                   tor’s interest.

9                   “(B) OPTIONS.—Any option or other right  
10                  to acquire an interest in property.

11                  “(C) NET LEASE PROPERTY.—In the case  
12                  of a lessor, net lease property (within the mean-  
13                  ing of subsection (h)(1)).

14                  “(D) CERTAIN PREFERRED STOCK.—Stock  
15                  which is fixed and preferred as to dividends and  
16                  does not participate in corporate growth to any  
17                  significant extent.

18                  “(E) STOCK IN CERTAIN CORPORATIONS.—  
19                  Stock in—

20                          “(i) an S corporation (within the  
21                          meaning of section 1361),

22                          “(ii) a personal holding company (as  
23                          defined in section 542), and

24                          “(iii) a foreign corporation.

1           “(3) EXCEPTION FOR STOCK IN FOREIGN COR-  
2           PORATION WHICH IS REGULARLY TRADED ON NA-  
3           TIONAL OR REGIONAL EXCHANGE.—Clause (iii) of  
4           paragraph (2)(E) shall not apply to stock in a for-  
5           eign corporation the stock of which is listed on the  
6           New York Stock Exchange, the American Stock Ex-  
7           change, or any domestic regional exchange for which  
8           quotations are published on a regular basis other  
9           than—

10                 “(A) stock of a foreign investment com-  
11                 pany (within the meaning of section 1246(b)),  
12                 and

13                 “(B) stock in a foreign corporation held by  
14                 a United States person who meets the require-  
15                 ments of section 1248(a)(2).

16           “(c) INDEXED BASIS.—For purposes of this sec-  
17           tion—

18                 “(1) INDEXED BASIS.—The indexed basis for  
19                 any asset is—

20                 “(A) the adjusted basis of the asset, multi-  
21                 plied by

22                 “(B) the applicable inflation ratio.

23                 “(2) APPLICABLE INFLATION RATIO.—The ap-  
24                 plicable inflation ratio for any asset is the percent-  
25                 age arrived at by dividing—

1           “(A) the gross national product deflator  
2           for the calendar quarter in which the disposi-  
3           tion takes place, by

4           “(B) the gross national product deflator  
5           for the calendar quarter in which the asset was  
6           acquired by the taxpayer (or, if later, the cal-  
7           endar quarter ending December 31, 1993).

8           The applicable inflation ratio shall not be taken into  
9           account unless it is greater than 1. The applicable  
10          inflation ratio for any asset shall be rounded to the  
11          nearest one-tenth of 1 percent.

12          “(3) GROSS NATIONAL PRODUCT DEFLATOR.—  
13          The gross national product deflator for any calendar  
14          quarter is the implicit price deflator for the gross  
15          national product for such quarter (as shown in the  
16          first revision thereof).

17          “(4) SECRETARY TO PUBLISH TABLES.—The  
18          Secretary shall publish tables specifying the applica-  
19          ble inflation ratios for each calendar quarter.

20          “(d) SPECIAL RULES.—For purposes of this sec-  
21          tion—

22          “(1) TREATMENT AS SEPARATE ASSET.—In the  
23          case of any asset, the following shall be treated as  
24          a separate asset:

1           “(A) a substantial improvement to prop-  
2           erty,

3           “(B) in the case of stock of a corporation,  
4           a substantial contribution to capital, and

5           “(C) any other portion of an asset to the  
6           extent that separate treatment of such portion  
7           is appropriate to carry out the purposes of this  
8           section.

9           “(2) ASSETS WHICH ARE NOT INDEXED ASSETS  
10          THROUGHOUT HOLDING PERIOD.—

11           “(A) IN GENERAL.—The applicable infla-  
12           tion ratio shall be appropriately reduced for cal-  
13           endar months at any time during which the  
14           asset was not an indexed asset.

15           “(B) CERTAIN SHORT SALES.—For pur-  
16           poses of applying subparagraph (A), an asset  
17           shall be treated as not an indexed asset for any  
18           short sale period during which the taxpayer or  
19           the taxpayer’s spouse sells short property sub-  
20           stantially identical to the asset. For purposes of  
21           the preceding sentence, the short sale period be-  
22           gins on the day after the substantially identical  
23           property is sold and ends on the closing date  
24           for the sale.

1           “(3) TREATMENT OF CERTAIN DISTRIBUTIONS.—A distribution with respect to stock in a  
2           corporation which is not a dividend shall be treated  
3           as a disposition.  
4

5           “(4) SECTION CANNOT INCREASE ORDINARY  
6           LOSS.—To the extent that (but for this paragraph)  
7           this section would create or increase a net ordinary  
8           loss to which section 1231(a)(2) applies or an ordi-  
9           nary loss to which any other provision of this title  
10          applies, such provision shall not apply. The taxpayer  
11          shall be treated as having a long-term capital loss in  
12          an amount equal to the amount of the ordinary loss  
13          to which the preceding sentence applies.

14          “(5) ACQUISITION DATE WHERE THERE HAS  
15          BEEN PRIOR APPLICATION OF SUBSECTION (a)(1)  
16          WITH RESPECT TO THE TAXPAYER.—If there has  
17          been a prior application of subsection (a)(1) to an  
18          asset while such asset was held by the taxpayer, the  
19          date of acquisition of such asset by the taxpayer  
20          shall be treated as not earlier than the date of the  
21          most recent such prior application.

22          “(6) COLLAPSIBLE CORPORATIONS.—The appli-  
23          cation of section 341(a) (relating to collapsible cor-  
24          porations) shall be determined without regard to this  
25          section.

1 “(e) CERTAIN CONDUIT ENTITIES.—

2 “(1) REGULATED INVESTMENT COMPANIES;  
3 REAL ESTATE INVESTMENT TRUSTS; COMMON TRUST  
4 FUNDS.—

5 “(A) IN GENERAL.—Stock in a qualified  
6 investment entity shall be an indexed asset for  
7 any calendar month in the same ratio as the  
8 fair market value of the assets held by such en-  
9 tity at the close of such month which are in-  
10 dexed assets bears to the fair market value of  
11 all assets of such entity at the close of such  
12 month.

13 “(B) RATIO OF 90 PERCENT OR MORE.—If  
14 the ratio for any calendar month determined  
15 under subparagraph (A) would (but for this  
16 subparagraph) be 90 percent or more, such  
17 ratio for such month shall be 100 percent.

18 “(C) RATIO OF 10 PERCENT OR LESS.—If  
19 the ratio for any calendar month determined  
20 under subparagraph (A) would (but for this  
21 subparagraph) be 10 percent or less, such ratio  
22 for such month shall be zero.

23 “(D) VALUATION OF ASSETS IN CASE OF  
24 REAL ESTATE INVESTMENT TRUSTS.—Nothing  
25 in this paragraph shall require a real estate in-



1 vestment trust to value its assets more fre-  
2 quently than once each 36 months (except  
3 where such trust ceases to exist). The ratio  
4 under subparagraph (A) for any calendar  
5 month for which there is no valuation shall be  
6 the trustee's good faith judgment as to such  
7 valuation.

8 “(E) QUALIFIED INVESTMENT ENTITY.—  
9 For purposes of this paragraph, the term  
10 ‘qualified investment entity’ means—

11 “(i) a regulated investment company  
12 (within the meaning of section 851),

13 “(ii) a real estate investment trust  
14 (within the meaning of section 856), and

15 “(iii) a common trust fund (within the  
16 meaning of section 584).

17 “(2) PARTNERSHIPS.—In the case of a partner-  
18 ship, the adjustment made under subsection (a) at  
19 the partnership level shall be passed through to the  
20 partners.

21 “(3) SUBCHAPTER S CORPORATIONS.—In the  
22 case of an electing small business corporation, the  
23 adjustment under subsection (a) at the corporate  
24 level shall be passed through to the shareholders.

25 “(f) DISPOSITIONS BETWEEN RELATED PERSONS.—

1           “(1) IN GENERAL.—This section shall not apply  
2       to any sale or other disposition of property between  
3       related persons except to the extent that the basis  
4       of such property in the hands of the transferee is a  
5       substituted basis.

6           “(2) RELATED PERSONS DEFINED.—For pur-  
7       poses of this section, the term ‘related persons’  
8       means—

9                   “(A) persons bearing a relationship set  
10       forth in section 267(b), and

11                   “(B) persons treated as single employer  
12       under subsection (b) or (c) of section 414.

13       “(g) TRANSFERS TO INCREASE INDEXING ADJUST-  
14       MENT OR DEPRECIATION ALLOWANCE.—If any person  
15       transfers cash, debt, or any other property to another per-  
16       son and the principal purpose of such transfer is—

17                   “(1) to secure or increase an adjustment under  
18       subsection (a), or

19                   “(2) to increase (by reason of an adjustment  
20       under subsection (a)) a deduction for depreciation,  
21       depletion, or amortization,

22       the Secretary may disallow part or all of such adjustment  
23       or increase.

24       “(h) DEFINITIONS.—For purposes of this section—

1           “(1) NET LEASE PROPERTY DEFINED.—The  
2       term ‘net lease property’ means leased real property  
3       where—

4                   “(A) the term of the lease (taking into ac-  
5       count options to renew) was 50 percent or more  
6       of the useful life of the property, and

7                   “(B) for the period of the lease, the sum  
8       of the deductions with respect to such property  
9       which are allowable to the lessor solely by rea-  
10      son of section 162 (other than rents and reim-  
11      bursed amounts with respect to such property)  
12      is 15 percent or less of the rental income pro-  
13      duced by such property.

14           “(2) STOCK INCLUDES INTEREST IN COMMON  
15      TRUST FUND.—The term ‘stock in a corporation’ in-  
16      cludes any interest in a common trust fund (as de-  
17      fined in section 584(a)).

18           “(i) REGULATIONS.—The Secretary shall prescribe  
19      such regulations as may be necessary or appropriate to  
20      carry out the purposes of this section.”

21           (b) CLERICAL AMENDMENT.—The table of sections  
22      for part II of subchapter O of such chapter 1 of such Code  
23      is amended by inserting after the item relating to section  
24      1021 the following new item:

                  “Sec. 1022. Indexing of certain assets for purposes of determining  
                                  gain or loss.”

1 (c) ADJUSTMENT TO APPLY FOR PURPOSES OF DE-  
 2 TERMINING EARNINGS AND PROFITS.—Subsection (f) of  
 3 section 312 of such Code (relating to effect on earnings  
 4 and profits of gain or loss and of receipt of tax-free dis-  
 5 tributions) is amended by adding at the end thereof the  
 6 following new paragraph:

7 “(3) EFFECT ON EARNINGS AND PROFITS OF  
 8 INDEXED BASIS.—

**“For substitution of indexed basis for adjusted  
 basis in the case of the disposition of certain assets  
 after December 31, 1993, see section 1022(a)(1).”**

9 (d) EFFECTIVE DATE.—The amendments made by  
 10 this section shall apply to sales or exchanges occurring  
 11 after December 31, 1993, in taxable years ending after  
 12 such date.

13 **SEC. 3. EXCLUSION FROM GROSS INCOME FOR DIVIDENDS**  
 14 **FROM DOMESTIC CORPORATIONS.**

15 (a) IN GENERAL.—Part III of subchapter B of chap-  
 16 ter 1 of the Internal Revenue Code of 1986 (relating to  
 17 amounts specifically excluded from gross income) is  
 18 amended by inserting after section 115 the following new  
 19 section:

20 **“SEC. 116. EXCLUSION OF DIVIDENDS RECEIVED BY INDIV-**  
 21 **VIDUALS.**

22 “(a) EXCLUSION FROM GROSS INCOME.—Gross in-  
 23 come does not include amounts received during the taxable

1 year by an individual as dividends from domestic corpora-  
2 tions.

3 “(b) CERTAIN DIVIDENDS EXCLUDED.—Subsection  
4 (a) shall not apply to any dividend from a corporation  
5 which, for the taxable year of the corporation in which  
6 the distribution is made, or for the next preceding taxable  
7 year of the corporation, is a corporation exempt from tax  
8 under section 501 (relating to certain charitable, etc., or-  
9 ganization) or section 521 (relating to farmers’ coopera-  
10 tive associations).

11 “(c) SPECIAL RULES.—For purposes of this sec-  
12 tion—

13 “(1) DISTRIBUTIONS FROM REGULATED IN-  
14 VESTMENT COMPANIES AND REAL ESTATE INVEST-  
15 MENT TRUSTS.—Subsection (a) shall apply with re-  
16 spect to distributions by—

17 “(A) regulated investment companies to  
18 the extent provided in section 854(c), and

19 “(B) real estate investment trusts to the  
20 extent provided in section 857(c).

21 “(2) DISTRIBUTIONS BY A TRUST.—For pur-  
22 poses of subsection (a), the amount of dividends  
23 properly allocable to a beneficiary under section 652  
24 or 662 shall be deemed to have been received by the

1 beneficiary ratably on the same date that the divi-  
2 dends were received by the estate or trust.

3 “(3) CERTAIN NONRESIDENT ALIENS INELI-  
4 GIBLE FOR EXCLUSION.—In the case of a non-  
5 resident alien individual, subsection (a) shall apply  
6 only—

7 “(A) in determining the tax imposed for  
8 the taxable year pursuant to section 871(b)(1)  
9 and only in respect of dividends and interest  
10 which are effectively connected with the conduct  
11 of a trade or business within the United States,  
12 or

13 “(B) in determining the tax imposed for  
14 the taxable year pursuant to section 877(b).”

15 (b) CLERICAL AND CONFORMING AMENDMENTS.—

16 (1) The table of sections for part III of sub-  
17 chapter B of chapter 1 of such Code is amended by  
18 inserting after the item relating to section 115 the  
19 following new item:

“Sec. 116. Exclusion of dividends received by individuals.”

20 (2) Subsection (c) of section 584 of such Code  
21 is amended by adding at the end thereof the follow-  
22 ing new sentence:

23 “The proportionate share of each participant in the  
24 amount of dividends received by the common trust fund  
25 and to which section 116 applies shall be considered for

1 purposes of such section as having been received by such  
2 participant.”

3 (3) Subsection (a) of section 643(a) of such  
4 Code is amended by inserting after paragraph (6)  
5 the following new paragraph:

6 “(7) DIVIDENDS.—There shall be included the  
7 amount of any dividends excluded from gross income  
8 pursuant to section 116.”

9 (4) Section 854 of such Code is amended by  
10 adding at the end thereof the following new sub-  
11 section:

12 “(c) TREATMENT UNDER SECTION 116.—

13 “(1) IN GENERAL.—For purposes of section  
14 116, in the case of any dividend (other than a divi-  
15 dend described in subsection (a)) received from a  
16 regulated investment company which meets the re-  
17 quirements of section 852 for the taxable year in  
18 which it paid the dividend—

19 “(A) the entire amount of such dividend  
20 shall be treated as a dividend if the aggregate  
21 dividends received by such company during the  
22 taxable year equal or exceed 75 percent of its  
23 gross income, or

24 “(B) if subparagraph (A) does not apply,  
25 a portion of such dividend shall be treated as

1           a dividend based on the portion of the compa-  
2           ny's gross income which consists of aggregate  
3           dividends, as the case may be.

4           “(2) NOTICE TO SHAREHOLDERS.—The amount  
5           of any distribution by a regulated investment com-  
6           pany which may be taken into account as a dividend  
7           for purposes of the exclusion under section 116 shall  
8           not exceed the amount so designated by the com-  
9           pany in a written notice to its shareholders mailed  
10          not later than 45 days after the close of its taxable  
11          year.

12          “(3) DEFINITIONS.—For purposes of this sub-  
13          section—

14               “(A) The term ‘gross income’ does not in-  
15               clude gain from the sale or other disposition of  
16               stock or securities.

17               “(B) The term ‘aggregate dividends re-  
18               ceived’ includes only dividends received from do-  
19               mestic corporations other than dividends de-  
20               scribed in section 116(b). In determining the  
21               amount of any dividend for purposes of this  
22               subparagraph, the rules provided in section  
23               116(c)(1) (relating to certain distributions)  
24               shall apply.”



1           (6) Subsection (c) of section 857 of such Code  
2       is amended to read as follows:

3       “(c) LIMITATIONS APPLICABLE TO DIVIDENDS RE-  
4       CEIVED FROM REAL ESTATE INVESTMENT TRUSTS.—For  
5       purposes of section 116 (relating to an exclusion for divi-  
6       dends received by individuals) and section 243 (relating  
7       to deductions for dividends received by corporations), a  
8       dividend received from a real estate investment trust  
9       which meets the requirements of this part shall not be con-  
10      sidered as a dividend.”

11      (c) EFFECTIVE DATE.—The amendments made by  
12      this section shall apply with respect to taxable years begin-  
13      ning after December 31, 1993.

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